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Tax Return Preparer Fraud

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Return preparer fraud generally involves the preparation and filing of false income tax returns by preparers who claim inflated personal or business expenses, false deductions, unallowable credits or excessive exemptions on returns prepared for their clients. Preparers may manipulate income figures to fraudulently obtain tax credits, such as the Earned Income Tax Credit.

In some situations, the client, or taxpayer, may not have knowledge of the false expenses, deductions, exemptions and/or credits shown on his or her tax return. However, when the IRS detects the false return, the taxpayer — not the return preparer — must pay the additional taxes and interest and may be subject to penalties.

The IRS Return Preparer Program focuses on enhancing compliance in the return-preparer community by investigating and referring criminal activity by return preparers to the Department of Justice for prosecution and/or asserting appropriate civil penalties against unscrupulous return preparers.

While most preparers provide excellent service to their clients, the IRS urges taxpayers to be very careful when choosing a tax preparer. Taxpayers should be as careful as they would be in choosing a doctor or a lawyer. It is important to know that even if someone else prepares a tax return, it is the taxpayer who is ultimately responsible for all the information on the tax return.

Helpful Hints When Choosing a Return Preparer

- Be cautious of tax preparers who claim they can obtain larger refunds than other preparers.
- Avoid preparers who base their fee on a percentage of the amount of the refund.
- Use a reputable tax professional who signs your tax return and provides you with a copy for your records.
- Consider whether the individual or firm will be around to answer questions about the preparation of your tax return months, or even years, after the return has been filed.
- Review your return before you sign it and ask questions on entries you don't understand.

- No matter who prepares your tax return, you, the taxpayer, are ultimately responsible for all of the information on your tax return. Therefore, never sign a blank tax form.
- Find out the person's credentials. Only attorneys, certified public accountants (CPAs) and enrolled agents can represent taxpayers before the IRS in all matters including audits, collection and appeals. Other return preparers may only represent taxpayers for audits of returns they actually prepared.
- Find out if the preparer is affiliated with a professional organization that provides its members with continuing education and resources and holds them to a code of ethics.
- Ask questions. Do you know anyone who has used the tax professional? Were they satisfied with the service they received?

Reputable preparers will ask to see your receipts and will ask you multiple questions to determine your qualifications for expenses, deductions and other items. By doing so, they are trying to help you avoid penalties, interest or additional taxes that could result from an IRS examination.

Further, tax evasion is a risky crime, a felony, punishable by five years imprisonment and a \$250,000 fine.

Criminal Investigation Statistical Information on Return Preparer Fraud

	FY 2007	FY 2006	FY 2005
Investigations Initiated	218	197	248
Prosecution Recommendations	196	153	140
Indictments/Informations	131	135	119
Sentenced	123	109	118
Incarceration Rate*	81.3%	89.0%	85.6%
Avg. Months to Serve	19	18	18

*Incarceration may include prison time, home confinement, electronic monitoring or a combination.

Criminal and Civil Legal Actions

Some return preparers have been convicted of, or have pleaded guilty to, felony charges.

Additionally, the courts have issued more than 255 permanent injunctions against abusive tax scheme promoters and abusive return preparers since 2003. The following case summaries are excerpts from public record documents on file in the court records in the judicial district in which the legal actions were filed.

Miami Return Preparer Sentenced for Telephone Excise Tax Fraud

On Aug. 20, 2007, in Miami, Fla., Equilla McRae, aka Equilla Edwards, aka Equilla Givens, was sentenced to 21 months in prison, followed by three years of supervised release and ordered to perform 250 hours of community service in each of those years of supervised release. In addition, McRae was ordered to pay \$179,369 in restitution to the Internal Revenue Service (IRS). In June 2007, McRae pleaded guilty to one count of making and presenting fraudulent federal income tax refund claims to the IRS. According to the indictment, McRae prepared, filed and assisted others in preparing and filing approximately 25 fraudulent income tax returns that resulted in fraudulent tax refund claims, including fraudulent telephone excise tax refund (TETR) credits, of approximately \$142,265. The TETR is a one-time credit available on 2006 income tax returns designed to refund previously-collected federal excise taxes on long-distance telephone service paid from March 2003 through June 2006.

Former New York Tax Preparer Sentenced for Tax Fraud and Ordered to Pay \$1.2 Million

On June 6, 2007, in White Plains, N.Y., Glen Robins was sentenced to 30 months in prison and ordered to pay \$1.2 million in restitution to the Internal Revenue Service for tax fraud conspiracy. Robins, a tax preparer, pleaded guilty in February 2007, admitting that he conspired to falsify expenses on his clients' partnership returns. The fictitious expenses created losses for the partnerships and those losses fraudulently reduced his clients' tax liability. He also admitted that he conspired to take fraudulent deductions for contributions to self-employment retirement plans. In addition, Robins admitted to submitting false tax returns for himself and his own partnerships.

Former Income Tax Preparer Sentenced to 36 Months in Prison

On May 29, 2007, in Shreveport, La., Paulius D. Pitts was sentenced to 36 months in prison, one year of supervised release and ordered to pay \$72,193 in restitution to the Internal Revenue Service. Pitts was indicted in August 2006 and charged with 21 counts of making false and fraudulent statements to the IRS. According to court documents, in 2003, while working as a tax return preparer in Shreveport, Pitts prepared numerous false 2003 federal income tax. The false federal income tax returns prepared by Pitts sought refunds totaling \$106,309. In January 2007, Pitts pleaded guilty to one count of making false and fraudulent statements.

Former CPA Sentenced to 51 Months in Prison

On May 23, 2007, in Portland, Ore., Harry Nels Kylo, former certified public accountant (CPA), was sentenced to 51 months in prison to be followed by three years of supervised release. In January 2007, Kylo pleaded guilty to one count each of mail fraud, tax evasion and impersonation of an IRS employee. Kylo was a CPA until his license was revoked by the Oregon State Board of Accountancy on September 30, 2003. At the plea hearing, Kylo admitted that from about 2000 to 2003, he devised a scheme to defraud some of his tax preparation clients, the IRS, and the Oregon Department of Revenue. The IRS and the Oregon Department of Revenue suffered lost tax revenue because of the thefts. Individual victim losses ranged from several thousand dollars up to \$390,000.

Texas Tax Preparer Sentenced to 18 Years in Prison

On Feb. 16, 2007, in Austin, Texas, Jonathan Marshall Sr. was sentenced to 18 years in prison and ordered to pay \$5,724 for the cost of prosecution for preparing fraudulent tax returns for clients. In addition to the prison term, he was ordered not to prepare or assist in preparing tax returns while in federal prison. Marshall was convicted of 40 tax fraud charges in November 2006. The jury found that from 2000-2005, Marshall placed false dependents and false business income or losses on his clients' tax returns in order to qualify them for larger tax refunds. The majority of his illegal tax scheme involved falsely qualifying his clients for the Earned Income Credit.

Cincinnati Tax Preparer Sentenced for Preparing Fraudulent Tax Returns

On Dec. 1, 2006, in Cincinnati, Ohio, Walter Daulton was sentenced to 46 months in prison followed by one year of supervised release and ordered to pay a \$1,500 fine for willfully aiding and assisting in the preparation of federal income tax returns which were false and fraudulent. According to testimony presented at trial, Daulton, a self-described truck tax expert, gave seminars at truck stops and trucking companies and prepared fraudulent income tax returns for truck drivers. On many of his clients' tax returns, he reported numerous fictitious expenses that his clients had neither paid nor incurred. The fictitious expenses included commissions, fees, gifts to charity, tarping and untarping fees, and other business expenses.

Return Prepared Sentenced to 48 Months in Prison for Conspiracy to Defraud the US

On Oct. 19, 2006, in Tucson, Ariz., Luis C. Deguzman Jr. was sentenced to 48 months in prison to be followed by three years of supervised release and ordered to pay \$416,965 in restitution to the IRS. On June 14, 2006, Deguzman was found guilty by a federal jury of conspiring to defraud the United States by filing false claims for income tax refunds. Evidence at trial showed that Deguzman told clients he could obtain large income tax refunds to be placed in a trust for the future benefit of their family and a charity of their choice. He claimed to have connections with the IRS which permitted him to gain special approval to use a loophole in the tax code in order to fund a charitable remainder trust for clients. Deguzman prepared the alleged trust documents and the client's tax return. Without the client's knowledge, he inflated the charitable contributions and sometimes added other false deductions. He would sometimes have the entire tax refund sent to accounts he controlled rather than the client's. In the promotion of the fraudulent charitable trust scheme, Deguzman attempted to defraud the IRS of \$455,985. Several of Deguzman's clients reported him to the IRS.

Federal Court Orders Halt to Nationwide "Tax Termination" Scheme

On Aug. 9, 2007, a federal court permanently barred Robert L. Schulz of Queensbury, N.Y., and his organizations, We the People Congress and We the People Foundation, from promoting a tax scheme that helped employers and employees improperly stop tax withholding from wages. The court said Schulz "relied on fringe opinions of known tax protestors whose theories have repeatedly been rejected by courts across the country." The court further noted that several of those tax protestors were convicted of tax crimes.

South Carolina Court Bars “Patriot” Group From Promoting Tax Schemes

On July 3, 2007, a federal judge permanently barred Robert Barnwell Clarkson and his so-called “Patriot Network” from promoting tax-fraud schemes. The court detailed Clarkson’s efforts to interfere with tax collection, including his instructions to transfer property to nominees and to sue IRS agents who attempt to collect taxes.

Federal Court Bars Georgia Man from Promoting “Absurd” Tax Scheme

On Aug. 31, 2007, a federal court permanently barred Derrick Sanders of Atlanta from promoting a tax fraud scheme involving false claims. According to the complaint, Sanders’ customers were advised they were not liable for income tax because they belonged to a purported Native American group, the so-called Yamassee Native American Tribe. The court noted that after it preliminarily enjoined Sanders in 2006 he “refused to back down from his absurd contention that the Yamassee are ... exempt from federal income taxes.”

Where Do You Report Suspected Tax Fraud Activity?

If you suspect tax fraud or know of an abusive return preparer, report this activity using IRS Form 3949-A, Information Referral. You can download Form 3949-A from the Web site at IRS.gov or call 1-800-829-3676 to order by mail. Send the completed form, or a letter detailing the alleged fraudulent activity, to Internal Revenue Service, Fresno, CA 93888. Please include specific information about who you are reporting, the activity you are reporting and how you became aware of it, when the alleged violation took place, the amount of money involved and any other information that might be helpful to an investigation. Although you are not required to identify yourself, it is helpful to do so. Your identity can be kept confidential. You may also be entitled to a reward.

Related Items:

- [Form 3949-A](#), Information Referral
- [Compliance & Enforcement](#)
- [Tax Scams/Consumer Alerts](#)
- [Standards of Practice for Tax Professionals](#)